

**MINUTES**  
**CLAY COUNTY PLANNING COMMISSION**  
**7:00 P.M., TUESDAY, APRIL 19, 2016**  
**MEETING ROOM B - THIRD FLOOR COURTHOUSE**

**Members Present:** Mark Klevgaard, Tom Jensen, Jenny Mongeau, Bill Davis, David Heng, Randy Schellack, Amos Baer, Tim Brendemuhl, Mike Hulett, Dan Langseth

**Members Absent:** Andrea Koczur

**Others Present:** Colleen Eck, Jenny Samarzja, David Sogn, Bob Softing, Clarice Softing, Joel Baer, Ezra Baer, Craig Halverson

**APPROVAL OF AGENDA**

**On motion by Jenny Mongeau, seconded by Mike Hulett, and unanimously carried, the Commission approved the agenda.**

**APPROVAL OF MINUTES**

**On motion by Tom Jensen, seconded by Randy Schellack, and unanimously carried, the Commission approved the following change to the March 22, 2016 minutes: Acres approved for mining was changed from 25 acres to 27 acres for Summit Sand & Gravel (Seter) permit.**

**On motion by Tim Brendemuhl, seconded by David Heng, and unanimously carried, the Commission approved the March 22, 2016 minutes with the above change.**

**CITIZENS TO BE HEARD**

Ezra Baer came before the Planning Commission members with a request to amend the Clay County Development Code by eliminating the County's current unit of measure used to determine Animal Units, and instead adopting the State's Animal Unit definition.

Baer's handout stated the following information which he read aloud. The current State Animal Unit definition was adopted by the legislature in the 2000 Session for Chapter 435, Section 3. Amendment of the text would provide: **Consistency amongst regulatory jurisdictions.** An animal unit should be understood by the regulatory agency and the regulated industry. The definition of animal unit should be consistent to avoid confusion. **Predictability.** Both the public, the regulated party, and the regulators need to understand that an animal unit is an animal unit. An animal unit should not mean something different if you're talking about County regulations versus State feedlot regulation. **Fairness.** Perception is reality. If a feedlot is over 1,000 animal units, most all regulators know that is defined as a concentrated animal feeding operation. Using Clay County definitions, a facility with 3,600 piglets less than 55 pounds equals 1,440 animal units, which under feedlot regulations would be a concentrated animal feeding operating (CAFO). Using State definition, the same facility would be 180 animal units. Such a disparity should be avoided. **State animal units are based on scientific evidence.** Baer

stated that the Clay County Development Code definition of animal unit is a first-generation definition, is outdated, and does not accurately reflect current data on the production of animal manure. With all the research that has been done by EPA, MPCA, the legislature, and various committees, including the Minnesota Pollution Control Agency and the Department of Agriculture, public hearings were held, committee hearings were held, testimony was given before the legislature, and after all that input, they adopted science-based criteria to compare animal manure production for purposes of regulation and protection of the environment. Amendment of the text to reflect the State definition would incorporate all of that research into the regulations of Clay County. Feedlot operators and regulators would be better served by having consistent definitions of animal unit.

Craig Halverson, Clay County Feedlot Officer, came forward and presented handouts with the State's break-down of each animal type. Swine are divided into three categories: Over 300 lbs., between 55 and 300 lbs., and under 55 lbs. (and separated from sow). He stated that the inconsistency between the Clay County Development Code and the State regulatory agencies creates confusion. He would be in favor of changing to State Animal Units and was not sure why they are not the same.

Jenny Samarzja, Assistant County Attorney, stated that this board can make a recommendation that the matter be requested to be forwarded to the County Board for discussion and action. A public hearing would be set and public notices would be published in the newspapers.

**On motion by Tim Brendemuhl, seconded by Bill Davis, and unanimously carried, the Commission approved a recommendation to the County Board for a text amendment to the County Code: changing the current measure for Animal Units to match the State Code definition of Animal Units.**

### **SUMMIT SAND AND GRAVEL– INTERIM USE REQUEST FOR AGGREGATE MINING**

The applicant is seeking approval of an Interim Use Permit to allow for the development of a new 20-acre aggregate mining operation. The affected property is located in the South Half, East Half, Northeast Quarter, Section 25, T138N, R45W (Skree Twp.) in the Agricultural General (AG) zoning districts.

Jenny Mongeau recused herself from the below hearing.

**On motion by Tom Jensen, seconded by Randy Schellack, and unanimously carried, the Planning Commission opened the public hearing.**

Planning Director Tim Magnusson was not available to present his report this evening. Colleen Eck, Planning staff, displayed aerial views of the site. She stated that this site would be a new mining site located adjacent to a previously permitted mining area. The adjacent mining site was permitted for 30 acres of mine area. The mine being proposed tonight would be for 20 acres for mining. Given that the new proposed mine is in the immediate vicinity of the previously permitted mine, is intended to be run by the same operator, and will, ultimately be connected directly to that previously permitted mine should be considered a "connected action" to that

previously permitted 30 acre mine. The State of Minnesota requires mining areas of 40 acres or larger, mined to a mean depth of 10 feet conduct an Environmental Assessment Worksheet before they receive final permitting. The only way to bypass having to conduct an EAW for this site would be to permit it for only nine acres to stay under the threshold. This information was shared with the applicant a week ago and he, in turn, provided an updated map showing just nine acres for mining. All the information for this request was forwarded to Teresa Olson of the Minnesota DNR from Bemidji, who was not in attendance at the meeting tonight.

The haul route would be to the west, on the haul road out of the Swenson Pit, to Clay County 31 to County Road 10, then west to Interstate 94. It was noted that during operation there should be signage on the County Road to warn drivers of increased truck traffic/trucks hauling. There are no residences along this gravel haul road so dust issues should be minimal.

The applicant was granted a variance to mine up to the western property line, varying from the normal 100-foot setback. The variance request was heard and approved at the Board of Adjustment meeting held March 2016.

The area is currently agricultural in use and will be reclaimed back to agricultural use upon completion of mining. It is estimated that material on the site may last for 7 to 10 years. This site appears to meet or exceed the standards for mining as stated in the Development Code. Operations at this site are requested to run from March through December, Monday thru Saturday, 10 to 14 hours per day, from 5 a.m. to 8 p.m. It has also been requested that the facility be allowed to operate 24 hours a day when necessary.

In response to a question, Assistant County Attorney Samarzja stated that the applicant could also apply to amend the permit for the adjacent mine if he would decide to decrease the acreage on that site, allowing for more mining potential at the site being addressed tonight.

The applicant, Dave Sogn said he was okay with being limited to nine acres at this site. He added he would like to start operations at 6 a.m.

The chair asked if there was anyone who wished to comment for or against the proposal.

Bob Soffing asked how far south they intend to mine and where material would be stockpiled. The applicant noted that they may mine up to 300 feet from the southern property line, but they would not stockpile there.

**On motion by Mike Hulett, seconded by Tom Jensen, and unanimously carried, the Planning Commission closed the public hearing.**

The Findings of Fact and Order were addressed by the Planning Commissioners as they pertain to the requested permit. All items can be addressed with conditions and none were found to warrant further discussion.

**On motion by David Heng, seconded by Bill Davis, and unanimously carried, the Planning Commission approved the request from Summit Sand and Gravel for an Interim Use Permit to allow for the development of an aggregate mining operation with the following**

**conditions:**

- 1. Permit shall terminate on December 31, 2026.**
- 2. Operate within provisions of the Clay County Land Development Ordinance.**
- 3. Operator shall control dust and provide necessary maintenance on any/all gravel haul roads.**
- 4. Operator shall provide proof of NPDES/SDS, Storm Water Management, and Air Quality Permits, as required, to the Planning Office and shall be in compliance with any and all local/state/federal regulating agencies prior to commencing mining operations.**
- 5. Operations must comply with all provisions of Wetlands Conservation Act.**
- 6. A maximum of 9 acres is approved for mining operations (excavation, screening, crushing, stockpiling, etc.) due to this pit being a “connected action” to the adjoining 30 acre pit (EAW threshold of 40 acres to depth of 10 feet). If additional acres are proposed to be opened in the future a new or amended IUP and an EAW would be required.**
- 7. May operate March thru December, Monday thru Saturday, from 6 a.m. to 9 p.m. If the need arises to operate 24 hours a day, the operator must contact the Planning Director in advance with the details of the anticipated time-frame for the extended mining hours to obtain approval. Said approval will be reviewed at the next Planning Commission meeting.**
- 8. Require applicant to provide \$1,000 per acre reclamation bond and reclaim mined out areas as mining activities progress. Require areas to be seeded to native prairie grasses or landowners specification upon reclamation.**
- 9. Applicant shall provide parking, screening, lighting, drainage, and portable sewer facilities consistent with County regulations as determined by the Planning Department and County Health Department.**
- 10. Require operator to present a mine plan to Planning Office indicating exact area to be mined, current topography, final topography, phases of mining operation, equipment locations, locations of hazardous material storage and sanitary facilities and stormwater management plan prior to commencing any operations at the site.**

**On motion by Bill Davis, and seconded by Mike Hulett, the meeting adjourned at 7:40 p.m.**

---

Tom Jensen, Planning Commission Secretary